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The Honorable Barry T. LaBarbera
Presiding Judge of the Superior Court of California
1050 Monterey Street
San Luis Obispo, CA, 93408

Re. Grand Jury 2016 Report- Keeping Suspects in Custody: When is Scheduled
Bail Not Enough?

Dear Judge LaBarbera,

Having reviewed the 2016 San Luis Obispo County Grand Jury Report entitled Keeping
Suspects in Custody: When is Scheduled Bail Not Enough?, my response to the findings
and recommendations are as follows:

Findings:

**4. The processes are in place for San Luis Obispo County law enforcement
officers to readily prepare requests for bail increases and submit the requests to a judge
for approval.**

The respondent agrees with this finding. The respondent is aware that these
processes are used routinely by law enforcement officers throughout the County on a case
by case basis, as is deemed necessary by the investigating officer(s). Further, the bail
increase process is often considered by investigating officers in serious felony cases
involving domestic violence, sexual assault, child abuse, murder, gang crimes, and
financial crimes.

**5. San Luis Obispo County Superior Court has advised local law enforcement
agencies to be mindful of this tool when considering bail.**

The respondent is aware of the bail schedule published by the San Luis Obispo
County Superior Court and the cover letter that advises local law enforcement:

*“[p]revailing legislation places the burden on law enforcement agencies
to notify the magistrate if the scheduled bail is not adequate for the crime.
It is recommended that each agency make their personnel cognizant of
Penal Code Sections 1269c and 1270.1 as certain provisions may apply if
bail modification occurs.”*

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6. The few crimes handled by San Luis Obispo County law enforcement officers warranting a bail enhancement increases the importance of ongoing training in this area to maintain knowledge and proficiency.

The respondent agrees with this finding. Training is critical for every professional law enforcement agency. Ongoing and continuous professional training is the responsibility of each local law enforcement agency. The respondent is aware that the Sheriff's Office does provide training regarding bail enhancement procedures to Sheriff Deputies as a part of its regular training program.

8. The District Attorney is in the best position to coordinate and lead an effort to ensure that each law enforcement agency in the county provides training to its personnel on bail enhancement tools.

The respondent disagrees with this finding. As stated on Page 5 of the Grand Jury Report, the District Attorney has made, and will continue to make, information and resources available to local law enforcement agencies with respect to procedures for seeking bail enhancements in appropriate cases. See for example, Attachment A – a Memorandum to San Luis Obispo County Law Enforcement Agencies re: Setting Bail at Booking, dated 11/20/15 (1 page); Attachment B – CJIS LEA Templates List (2 pages), Item #4 Bail Increase Request & Declaration & Order (Word templates accessible to all law enforcement officers); and Attachment C – Word document template entitled “Request for Bail in Excess of Felony Bail Schedule and Declaration of < >” (3 pages). However, the District Attorney is not in a position to ensure that every law enforcement officer in every agency receives the available training and information. This must necessarily be the responsibility of each respective agency.

Recommendations:

1. The District Attorney should coordinate the development of uniform written policies and procedures for local law enforcement agencies to make requests of the court for appropriate bail increases.

The respondent partially agrees with this recommendation. The District Attorney has already provided this role to the extent appropriate. The District Attorney's office has already provided all local law enforcement agencies with training on the subject matter and the use of the bail enhancement templates. The responsibility for providing written departmental policies lies squarely with each law enforcement agency. The District Attorney's Office is available for consultation should any local law enforcement agency seek its assistance. Additionally, the San Luis Obispo County Criminal Justice Administrators Association meets monthly to discuss matters of importance including the need for county-wide protocols or policies.

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2. The District Attorney should coordinate formal training programs for the local law enforcement agencies in the process for obtaining bail increases.

The respondent disagrees with this recommendation because the District Attorney has already fulfilled this role to the extent appropriate. Training is the individual responsibility of each law enforcement agency (see discussion above). Further, the process of seeking a bail increase is quite simple. The District Attorney's training memorandum has been provided to each local law enforcement agency along with a form template for assistance in preparation of the necessary documents. Further, if an officer requires assistance, he or she may contact a member of the District Attorney's office who is available "24/7" for consultation. It is the responsibility of each department to require and provide for the ongoing training of its officers. As stated in response to Recommendation 1, the District Attorney's Office is available for consultation should any local law enforcement agency seek its assistance.

3. Local law enforcement agencies should work with the District Attorney in the development of the above policies and programs within the resources of their respective departments.

The District Attorney remains available for consultation in the development of policies and procedures relative to bail increases, however the District Attorney cannot, and should not, dictate policy and procedure for any independent law enforcement agency.

Very Respectfully,



Dan Dow
District Attorney